THE HON'BLE SRI JUSTICE C.V. RAMULU

Tuesday, 23rd day of January,2007

W.P.No.13172 of 1995

Between:-

B. Deva Bhushanam … Petitioner

and

District Educational Officer,
Kurnool District, Kurnool
and others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.13172 of 1995

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus directing the respondents to regularize the services of the petitioner with effect from 1-9-1991 by modifying the Order contained in Proceedings No.5568/B4/93, dated 23-12-1994 passed by the 1st respondent to operate the same with retrospective effect from 1-9-1991, the date from which he has been working in the scale of Rs.1010-1800 of Secondary Grade Teacher and consequently to pay him arrears of salary from 1-9-1991 to 28-12-1994.

It appears, petitioner has passed B.A.,B.Ed., and was initially appointed in the 3rd respondent-School against an unaided post with effect from 1-7-1985. According to him, instructions were issued that Teachers working against unaided posts may be absorbed against regular posts as and when vacancies arise. Later, on the retirement of one Teacher, by name, Mrs.V.M.Deviramma, a regular vacancy against aided post arose on 31-7-1991. Thus, the petitioner became eligible for absorption against the said vacancy. A selection committee was constituted for conducting selections. Respondent No.1 did not understand the subject matter at all and kept the file without communicating the Order either approving or rejecting the proposal for regularization. Ultimately, the services of the petitioner were not regularized, though the panel approved his candidature.

Hence, the present Writ Petition.

A detailed counter affidavit has been filed on behalf of the 1st respondent denying the allegations made by the petitioner and stating that, in fact, the petitioner, earlier, filed Writ Petition No.12160 of 1993 and after withdrawal of the same, the competent authority on 23-12-1994 passed orders approving the selection of the petitioner and he was appointed as Secondary Grade Teacher with effect from 23-12-1994. Though the petitioner was initially appointed with effect from 1-7-1985 against an unaided post, there was no approval by the competent authority for the said appointment and no selection was conducted as per the Rules in vogue. As per sub-rule (6) of Rule 15 of G.O.Ms.No.524,Education, dated 20-12-1988, the private Schools qualify for grant-in-aid, if any, only when the appointments made are approved by the competent authority and only when those posts are held by the qualified candidates and not otherwise. As per sub-rule (4) (iii) of Rule 15 of the said G.O., the District Educational Officer is the competent authority in respect of Primary and Upper Primary Schools for granting approval of any appointment made by the Management. The selection of the petitioner was approved by the competent authority only on 23-12-1994. Earlier, his appointment was never approved by the District Educational Officer. Therefore, the question of regularization of his services prospectively or retrospectively does not arise.

It is seen from above, the services of the petitioner were already regularized with effect from 23-12-1994. Since the initial appointment of the petitioner was not approved as required under the law, the respondents have not considered for granting approval for his appointment with retrospective effect. The said action of the respondents cannot be said to be either arbitrary or illegal. Admittedly,

the petitioner was initially appointed against an unaided vacancy and for that, there was no approval sought from the competent authority. The Writ Petition is devoid of merits and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

23-1-2007

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